

OPEN SPACE COUNCIL
December 7, 2011, 9:00 a.m.
Legislative Hall
Senate Hearing Room, Second Floor
Dover, Delaware

ATTENDANCE

Council Members:

John R. Schroeder, Chairperson
Paul Boswell, Esq.
Gerald Brady, State Representative
George Bunting, State Senator
Lorraine Fleming
D. Wayne Holden
David Humes
C. Porter Schutt, III

Ex-Officio:

Charles A. Salkin, Parks & Recreation, DNREC

Advisory To:

Collin O'Mara, Secretary, DNREC

Staff:

Karen Bennett, Fish & Wildlife, DNREC
Matthew Chesser, Parks & Recreation, DNREC
Elena Stewart, Parks & Recreation, DNREC
Michael Valenti, Forestry, DDA
Ron Vickers, Parks & Recreation, DNREC
Pat Emory, Office of the Secretary, DNREC

Guest:

Michael Stroeh, U. S. Fish & Wildlife Service

I Call to Order/Announcements

Mr. Schroeder, Chairperson, called the Open Space Council meeting to order at 9:11 a.m. He welcomed two new Council members, David Humes and C. Porter Schutt, III. He asked for announcements.

Mr. Schroeder asked Council and staff to introduce themselves and identify their affiliation.

II Minutes of Meetings

Mr. Schroeder asked for a motion to approve the September 21, 2011 meeting minutes. Council approved the minutes as read.

III Financial Report

Mr. Vickers - The balance for the FY2011 Realty Transfer Tax fund is \$1,882,847.16. Realty Transfer Tax funding for FY2012 Open Space Program is \$9,000,000.00 and available December 15, 2011. Five projects were previously approved totaling (\$2,010,000.00). In addition there will be a \$227,577.00 reimbursement from a pending settlement. A balance of \$100,424.16 remains through 12/15/2011.

Two properties settled since the September meeting: Thomas property conservation easement at Red Clay Creek and Wright property fee acquisition at Nanticoke River.

Mr. Vickers presented an updated 17-page Open Space Inventory of properties protected through the program. Future Open Space minutes will include a tally of total cost and acres. To date, total acres protected are 52,081.8083 using \$241,036,356.20 of Open Space funds plus \$70,549,258.67 of other funds for a total of \$311,585,614.87.

IV Agency & Public Presentations

Mr. Schroeder asked for announcements and/or presentations from guests and staff.

DELAWARE BAYSHORE INITIATIVE

Secretary O'Mara discussed a new Delaware Bay Shore Initiative. He said the Delaware Bayshore is identified worldwide for its ecological significance and is a global destination for the birding community. He said DNREC's goal is to enhance the Delaware Bayshore area by making it the best conservation and low-impact recreational destination in the nation. The area covered by this initiative goes from Pea Patch Island to Cape Henlopen State Park.

Secretary O'Mara said for this effort to succeed we must engage our partners and work to be as cost effective as possible, leveraging federal and private funds. He challenged the Council to work with the Department to ensure that we protect the highest quality sites. The following is from a PowerPoint presentation the Secretary presented to the Council.

1. Conservation & Restoration:
 - Conservation - Expand on existing preserves through conservation easement and acquisitions strategies.
 - Restoration - Prioritize and strategize implementation of habitat restoration and enhancement projects - Focusing primarily on funding.
 - Enforcement - Target most vulnerable areas exposed to disturbance.
2. Recreation & Connectivity - connecting with local communities
 - Hiking/walking trails - Direct users to existing trails and highlight opportunities.
 - Biking Connections - Identify longer-range and safer roadside connections.
 - Waterways - Assess water trails and establish new launch areas.
 - Wildlife Viewing/Access - Identify placement for wildlife viewing platforms.
3. Engagement & Marketing
 - Branding & Marketing Materials - Develop consistent logo to identify destination & image and improve roadway and destination signs.
 - Facility Upgrades - Enhance existing facilities and identify public rest area needs
 - Community Economic Development - Work with Bayshore towns to identify opportunities
 - Volunteerism - Promote stewardship projects - get Delawareans engaged.

Mr. Schroeder said he has been involved with both the Agland Preservation Program and the Open Space Program since the beginning. He thought now was a good time to review the Open Space Program and evaluate whether we are using the best ways to preserve as much land as possible, either through fee simple acquisition or easements. He noted the Agland Preservation Program has worked very well.

Mr. Holden said he liked the Secretary's presentation. But the question is how one gets the greatest bang for the buck, as monetary and financial constraints are the obstacle at this time. All

agencies and property owners have been willing partners. But landowners want value in return. The opportunity of presenting the Delaware Bayshore as a national treasure is a good one. He would suggest looking at giving the Open Space Program the same type of auction process the Agland Preservation Program uses.

Mrs. Fleming said she is strongly in favor of developing a mechanism in the Open Space Program that will institute competition into the process. However, she doesn't believe that we can take the Agland Preservation Program and transplant it into the Open Space Program. Also a uniform conservation easement does not fit all situations. We are dealing with natural lands, recreational lands and all kinds of things in between. Any uniform conservation easement would not get the protections needed for ecologically-based preservation lands. She said she is certainly in favor of using conservation easements wherever suitable. State government does not need to own and manage all of the conservation lands. An inholding within a state park would need to be purchased fee simple. Council needs to look at a new way of doing business.

Mr. Boswell said at this time we are running into several difficulties. Today's economy makes the climate very difficult with many factors at play. If we are looking at the Agland Preservation Program, farmers are looking for some working capital and still own their land. The estate tax exemption may become an issue in a year or two. In addition, corporate deductions need to be considered for those lands that are owned in family partnerships or other ventures.

Senator Bunting agreed with Mr. Boswell. He noted the competitive bidding works well for agriculture. Nevertheless, there should be another option out there for open space. He also liked the idea of discussing the Delaware Bayshore in a national perspective.

Mr. Holden suggested maybe working in the Bayshore area with "natural resource areas" protected with an overlay of easements.

Mr. Schroeder said we might not be ready to get into any new specifics on how we might operate. However, we could look at the idea of allocating a percentage of Open Space funds to the Bayshore Initiative or other sites in the State.

Mr. Salkin said the Secretary challenged staff to identify priority areas for protection. Based on data in hand, two major areas were identified – the Delaware Bayshore and the Nanticoke River watershed. Staff would work with landowners willing to give the lowest price. For the first time in several years the program is fully funded and it can concentrate on protecting the most critical sites.

Mr. Holden said he has been through the Agland Preservation Program negotiations three times. The pressure of not knowing who is putting in a bid, knowing the discount in the last round, knowing one has to make a decision and sign paperwork by a certain date, encourages one to take a lower price and be willing to commit. If we take any of this out, we diminish the effectiveness and ability to accomplish the greatest advantage possible.

Mr. Salkin said that is why we could start with several lower-priced properties in the James Branch area and see if a reverse auction would work.

Mr. Chesser suggested that the program needs support from the Council and the legislature to be able to do minor subdivisions for conservation purposes at no or little cost. Currently agricultural lands of at least 10-acres can be subdivided very easily. In order to be strategic in some areas the Open Space Program may only be looking at part of a property. Any savings may be lost in the costs associated with the subdivision process.

Mrs. Fleming thought the James Branch area would be a good place to start this experiment. However, you cannot have a mixture - it is either an auction or not an auction.

Mr. Schroeder asked for a motion that Council recommend to Secretary O'Mara to give the Department approval to go ahead with the Bayshore and Nanticoke River watershed initiatives and to explore acquisitions needed. The Department should begin brainstorming on all the issues discussed today and look at the Agland Preservation Program and see if its features can be used to leverage Open Space funds to the maximum. He also asked for volunteers from Council to work with staff to review funding options and report to Council.

Volunteers from Council were Mrs. Fleming, Mr. Schutt and Mr. Boswell.

Mr. Holden moved that Chairman Schroeder and Council recommend to Secretary O'Mara and staff to move forward with the Bayshore and Nanticoke Watershed initiatives as set out. The motion passed unanimously.

OPEN SPACE PROGRAM - PROPERTY RANKING PROCESS

Mr. Vickers provided Council with a new Property Ranking Process handout. Secretary O'Mara charged the staff with coming up with a new process that allows properties to be ranked for specific features, ranked against other sites, uses the latest geographic information system data, and shows how specific acquisitions fit with on-going plans and can be leveraged with outside funding sources. A summary of the background of the process follows:

- Open Space Council will review and recommend to the DNREC Secretary the adoption of a ranking process that establishes land preservation priorities.
- The ranking process is intended to provide a strategic way of preserving open space by evaluating a property on its own features and against other similarly ranked properties in order to maximize benefits and leverage all relevant funding sources.
- Any property proposed for preservation is first screened by the following state land managing agencies for any specific interest:
 - Division of Fish & Wildlife (Wildlife Areas)
 - Division of Parks & Recreation (State Parks & Nature Preserves)
 - Delaware National Estuarine Research Reserve
 - Delaware Forest Service (State Forests and Forest Legacy Areas)
 - Division of Historical and Cultural Affairs
- Typically, a property of interest is an inholding to, expansion of or connection between lands protected or managed by these agencies.
- Additionally, a property of interest may be a stand-alone site that contains critical resources.
- The property is also reviewed against resource plans or resource analyses including the Delaware Ecological Network.
- The property is given a numeric score based on specific data from the following categories: ecological value, land use, cultural resources, water features, and recreation.
- A descriptive evaluation and project-specific questions are answered.

Ms. Stewart provided a sample ranking of properties in the James Branch watershed near Trap Pond State Park. Based on the category information, priority sites were identified.

Mrs. Fleming provided staff with comments on the process as presented.

Council members generally agreed this new process is an improvement over the old system which is not as inclusive in its data analysis.

Mr. Schroeder asked for a motion to recommend to the Secretary the adoption of the new Property Ranking Process as presented and discussed, allowing for minor changes. The motion passed unanimously.

V Executive Session - Discussion of Site Acquisition Contracts

The Council adjourned to Executive Session at 11:09 a.m. to discuss site acquisition contracts. The Council returned to Open Session at 12:12 p.m.

VI Project Recommendations

Based on discussion in Executive Session, the Council recommended the following:

Delaware Forest Service – Michael Valenti

- A. Sheats Properties: Two parcels totaling 22.36-acres located between the Wright Tract and Meadows Tract at Blackbird State Forest, NCC. The state appraiser had evaluated the property at \$9,500 per acre and Council approved this value at the September meeting. However, the Sheats appraisal came in at \$12,000 per acre. It was moved by Rep. Brady, seconded by Mrs. Fleming, and agreed, to recommend to the Secretary to acquire the Sheats property at up to \$10,000.00 per acre. Mr. Boswell recused himself.
- B. Jacobs Property: Union Church Rd, 2-acres located north of Blackbird Creek, NCC. The property would be purchased with Delaware Emergency Management Agency flood hazard mitigation funds and New Castle Conservation District funds, with some Open Space funds used for related closing costs. The property would be added to the Division of Fish & Wildlife's inventory and managed by the Delaware National Estuarine Research Reserve System. It was moved by Mr. Humes, seconded by Rep. Brady, and agreed to recommend to the Secretary to move forward with the purchase of property.
- C. James Branch: targeting multiple landowner sites near Trap Pond State Park, SC. It was generally agreed to recommend to the Secretary that staff continue research and negotiate with property owners in this area. Staff should look for ways of maximizing funds and leveraging outside sources and discounts with landowners.
- D. Lowe/McGuire Property: 37-acre parcel located near Chipman's Pond, Laurel, SC. It was moved by Mr. Humes, seconded by Mr. Schutt, and agreed, to recommend to the Secretary to bid up to 70 percent of the state's appraised value at auction.

VII Next Meeting and Adjournment

Mr. Schroeder asked staff to send a reminder to all Council members ten days prior to meetings and Council please respond if able to attend.

The 2012 Council meetings will be held at Legislative Hall, Second Floor, Senate Hearing Room, Dover, DE 19901, on March 7, June 6, September 5, and December 5, starting at 9:00 a.m.

Mr. Schroeder asked for a motion to adjourn. The meeting adjourned at 12:20 p.m.